

**IN THE UNITED STATES DISTRICT COURT
FOR THE EASTERN DISTRICT OF PENNSYLVANIA**

JOSHUA SHUMAN, a minor by and :
through his mother and natural guardian :
TERESA SHERTZER, and TERESA :
SHERTZER, individually : **CIVIL ACTION NO. 02-CV-3594**

Plaintiffs,

v.

(GARDNER)

PENN MANOR SCHOOL DISTRICT, :
PENN MANOR SCHOOL BOARD, :
GARY B. CAMPBELL, individually and as :
Superintendent of the Penn Manor :
School District, :

AND :

DONALD STEWART, individually and as :
Acting Superintendent of the Penn Manor :
School District :

AND :

JANICE M. MINDISH, individually and as :
Principal of Penn Manor High School, :

AND :

BRIAN D. BADDICK, individually and as :
Assistant Principal of Penn Manor High :
School, :

AND :

PHILIP B. GALE, individually and as Dean :
of Students of Penn Manor High School, :

AND :

CAROLE FAY, individually and as a teacher :
and Agriculture Coordinator at Penn Manor :
High School :

Defendants.

**MOTION OF DEFENDANTS, PENN MANOR SCHOOL DISTRICT, PENN
MANOR SCHOOL BOARD, GARY B. CAMPBELL, DONALD STEWART,
JANICE M. MINDISH, BRIAN D. BADDICK, PHILIP GALE, AND
CAROLE FAY'S, FOR LEAVE TO FILE A
REPLY BRIEF IN SUPPORT OF
DEFENDANTS' MOTION FOR SUMMARY JUDGMENT**

AND NOW comes Defendants, Penn Manor School District, Penn Manor School Board,
Gary B. Campbell, Donald Stewart, Janice M. Mindish, Brian D. Baddick, Philip Gale, and

Carole Fay, by its counsel, Sweet, Stevens, Tucker & Katz LLP, and requests that this Honorable Court grant permission for Defendants' to File a Reply Brief in Support of Defendants' Motion for Summary Judgment, and states in support thereof the following:

1. Plaintiffs instituted this action by way of filing of Complaint on or about June 5, 2002.
2. Defendants filed a Motion for Summary Judgment and Brief on December 15, 2003.
3. With an extension of time, concurred with by the Defendants, Plaintiffs filed a Response to Defendants' Motion for Summary Judgment on January 9, 2003.
4. The Plaintiffs have presented the Court with four constitutional claims and two state law claims against seven Defendants.
5. Plaintiffs' Brief in Opposition to Defendants' Motion for Summary Judgment raises new issues relating to their 1st Amendment and 14th Amendment claims, as well as "failure to train" claims against the District which have not been previously raised.
6. Defendants, through the Reply Brief attached hereto, seek leave to respond to significant Constitutional issues and new claims presented in Plaintiffs' Brief in Opposition to Defendants' Motion for Summary Judgment.

WHEREFORE, in view of the foregoing, Defendants, Penn Manor School District, Penn Manor School Board, Gary B. Campbell, Donald Stewart, Janice M. Mindish, Brian D. Baddick, Philip Gale, and Carole Fay, respectfully request Leave to file a Reply Brief in Support of Defendants' Motion for Summary Judgment.

Respectfully submitted,

SWEET, STEVENS, TUCKER & KATZ LLP

Date: January 19, 2004

By: /s/ Jason R. Wiley

Ellis H. Katz, Esquire

Attorney I.D. #34825

Jason R. Wiley, Esquire

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331 Butler Avenue

New Britain, PA 18901

Attorneys for Defendants,

Penn Manor School District, Penn Manor School Board, Gary B. Campbell, Donald Stewart, Janice M. Mindish, Brian D. Baddick, Philip Gale, and Carole Fay

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PENN MANOR SCHOOL BOARD,	:	
GARY B. CAMPBELL , individually and as	:	
Superintendent of the Penn Manor	:	
School District,	:	
AND	:	
DONALD STEWART , individually and as	:	
Acting Superintendent of the Penn Manor	:	
School District	:	
AND	:	
JANICE M. MINDISH , individually and as	:	
Principal of Penn Manor High School,	:	
AND	:	
BRIAN D. BADDICK , individually and as	:	
Assistant Principal of Penn Manor High	:	
School,	:	
AND	:	
PHILIP B. GALE , individually and as Dean	:	
of Students of Penn Manor High School,	:	
AND	:	
CAROLE FAY , individually and as a teacher	:	
and Agriculture Coordinator at Penn Manor	:	
High School	:	
	:	
Defendants.	:	

CERTIFICATE OF SERVICE

The undersigned hereby certifies that on this 16th day of January, 2004 a copy of the foregoing Motion for Leave to File a Reply Brief was served upon the following persons by postage-paid, first class mail, to the following individual:

Deirdre A. Agnew, Esquire
Goshen Executive Center, Bldg. 400A
1450 East Boot Road
West Chester, Pennsylvania 19380

SWEET, STEVENS, TUCKER & KATZ LLP

Date: January 19, 2004

By: /s/ Jason R. Wiley

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Attorneys for Defendants,

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